

**Boston Municipal Court Standing Order 6-20:
Limiting Appearances in Boston Municipal Courthouses due to COVID-19
Pandemic**

As Chief Justice of the Boston Municipal Court Department, I issue the following Standing Order pursuant to my authority under G.L. c. 211, § 10, G.L. c. 218, § 38, and G.L. c. 220, § 5, as well as the Supreme Judicial Court Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic (issued on April 27, 2020 effective May 4, 2020),¹ to continue to reduce the number of people coming into Massachusetts State courthouses.

This Standing Order shall REPLACE Boston Municipal Court Standing Order 4-20 (issued on April 3, 2020), which Order is hereby rescinded.²

I. It is hereby ORDERED, **effective May 4, 2020**:

- A. Court Operations: That the Divisions of the Boston Municipal Court will continue to be closed to the public except to conduct virtual hearings (i.e. by telephone or videoconference or other comparable means) in Emergency Matters, and certain Non-Emergency Matters as provided below. Physical access to the courthouse continues to be permissible only for Emergency Matters if the matter cannot be resolved virtually, either because such a hearing is impracticable or because it would be inconsistent with the protection of constitutional rights. Access to the courthouse will also be permitted for 1) issues regarding GPS³ or other remote monitoring devices ordered by a judge; and 2) the posting of bail.⁴ First Justices, Clerk-Magistrates

¹ All court orders are available at the judiciary's "Court System Response to COVID-19" webpage at <https://www.mass.gov/guides/court-system-response-to-covid-19>

² Boston Municipal Court Standing Order 4-20 (issued April 3, 2020) replaced and rescinded Boston Municipal Court Standing Order 3-20 (issued March 17, 2020), which replaced and rescinded Boston Municipal Court Standing Order 1-20 (issued March 13, 2020).

³ See Supreme Judicial Court Order Concerning the Imposition of Global Positioning System (GPS) Monitoring as Condition of Release or of Probation (issued March 23, 2020).

⁴ See also Trial Court Emergency Administrative Order 20-6: Temporary alternative procedures for Bail Magistrates and Bail Commissioners setting and taking bail after court hours during the COVID-19 pandemic (issued April 1, 2020).

and Chief Probation Officers shall consult regarding the minimal staffing necessary to sustain such court operations. Physical access to the courthouse is also subject to compliance with the Updated Supreme Judicial Court's Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 Pandemic (issued April 27, 2020, effective May 4, 2020) and Trial Court Emergency Administrative Orders concerning court operations because of COVID-19. Any Court rule, criminal or civil, that impedes a judge's or court clerk's ability to utilize available technologies to limit in-person contact is suspended for the duration of this Order.

B. Emergency Matters: All Emergency Matters, as defined in section (i) below, that arise between 8:30 a.m. and 4:30 p.m. shall take place virtually over videoconference or telephonic conference call without the physical presence of the parties, counsel, or other members of the public so as to avoid person to person contact and the possibility for transmission of the COVID-19, unless such a hearing is not practicable or because it would be inconsistent with the protection of constitutional rights. After 4:30 p.m., the judicial response system will be activated in the normal course.

i. "Emergency Matters" for the purposes of this Standing Order are defined as follows:

- a. Abuse Prevention Orders pursuant to G.L. c. 209A;
- b. Harassment Prevention Orders pursuant to G.L. c. 258E;
- c. Extreme Risk Protection Orders pursuant to G.L. c. 140, § 131R et. seq.;
- d. mental health hearings pursuant to G.L. c. 123,
- e. hearings for Order of Pretrial Detention pursuant to G.L. c. 276, § 58A;
- f. arraignments of new arrests in which the arrestee is in custody;
- g. warrant removals for persons in custody;
- h. probation detention hearings and probation violation hearings where commitment is sought;
- i. search warrants applications and returns;
- j. motions seeking the court reconsider a person's custodial status, including those filed pursuant to BMC Standing Order 5-20;

- k. motions for funds in any case where an individual is being held pre-trial, serving a sentence, or who is civilly committed for substance abuse treatment;⁵
- l. applications for arrest warrants.

C. Non-Emergency Matters: Subject to the approval of the First Justice of each respective Division and upon consultation with their respective Clerk Magistrate and Chief Probation Officer, the following Non-Emergency Matters that are scheduled between May 5, 2020 and June 1, 2020 may take place as scheduled to the extent practicable considering reduced court staffing, technological constraints, and the need to prioritize Emergency Matters within each Division. Non-Emergency Matters shall occur virtually over videoconference or telephonic conference call without the physical presence of the parties, counsel, or other members of the public to avoid person to person contact and the possibility for transmission of the COVID-19. Any Non-Emergency Matter that cannot take place as scheduled shall be continued to a date as provided for in this Order.⁶

i. Non-Emergency Criminal Matters:

- a. Non-evidentiary criminal matters: Any non-evidentiary criminal matter may be heard virtually provided that hearings for guilty pleas, admissions to sufficient facts, and probation violation stipulations may occur only 1) upon written motion of the defendant with an affidavit of counsel that should include that they have consulted with the defendant and has advised him of all their rights; 2) the court agrees; 3) when conducted by videoconference; 4) after a colloquy is conducted with the defendant which includes that the defendant is knowingly, intelligently, and voluntarily waiving their right to physical presence, agreeing to the use of videoconferencing for the hearing, and that the COVID-19 pandemic has not unduly

⁵ See Committee for Public Counsel Services v. Chief Justice of the Trial Court (No. 2), SJC12926, *6 (April 28, 2020).

⁶ Any updates regarding Non-Emergency Matters being heard in the Divisions of the BMC shall be posted by notices on the judiciary's COVID-19 webpage.

influenced the decisions made in connection with their case;

- b. Evidentiary criminal matters: Other than jury trials, evidentiary criminal matters may be conducted by videoconference only where 1) both parties agree, in writing, to proceed by videoconference, and an affidavit is filed by defense counsel that should include that they have consulted with the defendant and have advised them of all their rights; 2) the court agrees; 3) the defendant participates in the hearing by videoconference; and 4) after a colloquy is conducted with the defendant to ensure the defendant is knowingly, intelligently, and voluntarily waiving their right to physical presence, agreeing to the use of videoconferencing for the hearing, and that the COVID-19 pandemic has not unduly influenced the decisions made in connection with their case;
- c. Show cause hearings: All show cause hearings currently scheduled or filed between March 18, 2020 and June 1, 2020, shall be CONTINUED to the first business day no less than 60 days from the date of the scheduled event, or to a date by agreement of the parties and the respective Clerk's Office, not before June 1, 2020;
- d. Summons arraignments: Summons arraignments scheduled for between March 18, 2020 and June 1, 2020, shall be CONTINUED to the first business day no less than 60 days from the date of the scheduled event, or to a date by agreement of the parties and the respective Clerk's Office, not before June 1, 2020.
- e. Criminal Trials:
 - i. Bench Trials: All bench trials in criminal matters scheduled between March 13, 2020 and June 1, 2020, shall be CONTINUED to a date no earlier than June 1, 2020, unless the bench trial is conducted virtually pursuant to this Order.

- ii. Jury Trials: All jury trials in criminal cases scheduled between March 13, 2020 and July 1, 2020 shall be CONTINUED to a date no earlier than July 1, 2020.
- f. All other scheduled events: All Non-Emergency criminal matters scheduled for an event or filed, between March 18, 2020 and May 31, 2020, other than trials, that are not able to be heard virtually pursuant to this Order, shall be CONTINUED to the first business day no less than 60 days from the date of the scheduled event, or to a date by agreement of the parties and the respective Clerk's Office, not before June 1, 2020;
- g. Bailed Arrests: A person arrested on a new complaint, or any warrant, and released on bail by the bail magistrate shall be ordered to appear for arraignment as directed by the bail magistrate;
- h. Persons in Custody: Cases for individuals in custody that are not able to be addressed virtually under this Order shall be CONTINUED to the first business day not more than 29 days from the date of the scheduled event, or to a date by agreement of the parties and the respective Probation Office and Clerk's Office.
- ii. Non-Emergency Civil Matters: All Non-Emergency civil matters, including Appellate Division matters other than mental health matters, currently scheduled or filed between March 18, 2020 and June 1, 2020, other than jury trials, that are not able to be heard virtually, and administrative reviews, shall be CONTINUED to the first business day no less than 60 days from the date of the scheduled event, or to a date by agreement of the parties and the respective Clerk's Office not before June 1, 2020.

a. Civil Trials:

- i. Bench Trials: Bench trials in civil cases shall be heard via videoconference where the parties agree in writing, and the court agrees, that the case can be decided virtually without the need for in-person appearance in court, pursuant to this order.
- ii. Jury Trials: All jury trials in civil cases scheduled between March 13, 2020 and July 1, 2020 shall be CONTINUED to a date no earlier than July 1, 2020.

II. Additional Orders:

- A. Clerk's Offices: Clerk's offices shall remain open to conduct court business permitted by this Order, to schedule and facilitate hearings, to answer questions from attorneys, litigants, and the general public, to conduct other necessary business of the respective Division and shall accept all legally permissible filings in all matters. All such business will be conducted virtually, except when the filing of pleadings and other documents cannot be accomplished virtually. Each Clerk's Office shall implement a protocol for handling the in-person filings of pleadings and other documents that is designed to limit the spread of the coronavirus and preserve the health and safety of court personnel and users as much as possible. Questions regarding matters set forth in § I of this Order may be addressed by calling the telephone number of the court division.
- B. Motions based on continuances: Where a trial or evidentiary hearing is postponed as a result of this Order, or BMC Standing Orders 1-20,3-20, 4-20, the parties may file a motion seeking a conference with the court to address matters arising from the postponement by motion to the court where the event was supposed to occur. Any hearing on such motion shall be conducted virtually over videoconference or telephonic conference. In criminal cases a defendant may file a motion asking the court to address their custodial status or amend conditions

of release. Nothing in this Order addresses the disposition of such requests for reconsideration.

- C. Protection Orders: Ten-day return hearings for Ex Parte orders issued under G.L. c. 209A and G.L. c. 258E shall be conducted virtually over videoconference or telephonic conference call. All emergency protection orders (G.L. c. 209A; G.L. c. 258E; G.L. c. 140) issued after an adversarial hearing (or an opportunity for an adversarial hearing), prior to the issuance of this order, that were due to expire on or after March 16, 2020, shall remain in effect until the matter is rescheduled and heard by the court. An in-person hearing may be requested for any order that issued virtually from March 13 to June 1 when normal court operations resume.
- D. Filings in Emergency and Non-Emergency Matters: Any document that the parties wish the court to review for any hearing in any Emergency or Non-Emergency Matter shall be emailed to the Clerk-Magistrate's Office at the dedicated emails set up for each Division at bmc[court division name]@jud.state.ma.us, two business days prior to the date of the scheduled hearing if possible. Any document so filed shall be served on all parties, as well as the probation service for criminal matters, electronically when possible.
- E. Court recordings: Judges and Clerks shall ensure that all videoconferences or telephonic conference are recorded to the extent practicable.
- F. Electronic signatures: All court documents, other than search warrants, may be signed electronically by any party to be accepted for filing. Electronic signatures may take the form of either a scan of an individual's handwritten signature, an electronically inserted image intended to substitute for a signature, or a "/s/ name of signatory" block. Such electronic signature shall have the same force and effect as if the person had affixed his or her original signature to a paper copy of the document so signed.⁷

⁷ See Supreme Judicial Court's Order Concerning Electronic Signature of Judges and Clerks (issued March 25, 2020).

- G. Fees and Fines: Persons who have been assessed fees, fines, or court costs, including probation supervision fees, in a criminal matter that are due between March 18, 2020 and June 1, 2020 may pay their fee or fine online through the ePay portal that is accessible at www.masscourts.org. No fees, fines, or costs shall be collected at a courthouse while this Order is in effect. If a person is unable to pay such fee or fine through the ePay portal, the requirement that such fee or fine be paid during that time frame is deferred until June 15, 2020 and Courts shall extend payment due dates to June 15, 2020. The deferment of such payment shall not operate to extend a person's probation.
- H. Orders generally: Any order issued prior to March 17, 2020 after an adversarial hearing (or an opportunity for an adversarial hearing) with a return hearing scheduled during the pendency of this Order are to remain in full force and effect until the matter is rescheduled and heard by the court, unless an order issues by the court terminating the order at an earlier date.
- I. Media access: Courts shall undertake efforts to ensure appropriate media access to all virtual hearings consistent with Supreme Judicial Court Rule 1:19 and the paragraph 5 of the Supreme Judicial Court's Updated Order Regarding Court Operations Under the Exigent Circumstances Created by the COVID-19 (Coronavirus) Pandemic (effective May 4).
- J. Other matters: This Order does not prevent any court's consideration of any matter that can be resolved virtually by phone, videoconference or other similar means in the discretion of a presiding justice so long as it is consistent with current COVID-19 Orders of the Supreme Judicial Court, Trial Court, and Boston Municipal Court as well as any constitutional protections.
- K. Speedy Trial Computations: Pursuant to Mass. R. Crim. P. 36, I find that the basis for this Order necessitating these temporary, emergency conditions and continuances are in the best interests of the ends of justice and outweigh the public's and the defendant's interest in a speedy trial. Therefore, the time periods of such continuances shall be excluded from speedy trial computations under Mass. R. Crim. P. 36.

- L. Statute of Limitations: All statutes of limitations are tolled from the date of this order through May 31, 2020.
- M. Exceptions: Upon a showing of exceptional circumstances, a party who had a trial or evidentiary hearing postponed as a result of this Order or prior court orders may apply for an exception from this order. No exception shall be granted except with the approval of the Chief Justice and in no event shall a jury empanelment or jury trial occur during this time period due to the inherent risk involved in doing so.

Any deviation from this Order must be sought from the Chief Justice of the Boston Municipal Court.

This Order is effective May 4 and shall remain in effect until further order of this Court.

This Standing Order shall be posted on the judiciary's "Court System Response to COVID-19" mass.gov webpage, which is located at <https://www.mass.gov/guides/court-system-response-to-covid-19>.

/s/ Roberto Ronquillo, Jr.

Hon. Roberto Ronquillo, Jr.

Chief Justice of the Boston Municipal Court

Promulgated: May 1, 2020